

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12CV58-FDW-DSC**

THIS MATTER is before the Court on “Defendant’s Motion to Compel and for Sanctions” (document #10), and the parties’ associated briefs and exhibits. See documents ##11-13.

This Motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B), and is now ripe for the Court's consideration.

Defendant seeks an order compelling Plaintiff to produce complete supplemental responses to (1) Defendant’s First Set of Interrogatories to Plaintiff; (2) Defendant’s First Request for Production to Plaintiff; (3) Defendant’s Second Request for Production to Plaintiff (collectively the “Discovery Requests”); and to appear for her deposition.

The Court has carefully reviewed the parties' arguments, the applicable authority, and the record including the Discovery Requests and Plaintiff's initial responses. The Court finds that the Discovery Requests are reasonably calculated to lead to the discovery of admissible evidence. For this reason and the other reasons stated in its Motion and supporting briefs, the Court grants Defendant's Motion to Compel.

It is apparent from both the tone and content of “Plaintiff’s Response ...” that she would like

to participate in this litigation according to her own terms. See document #12 at 10-12. Since she has not been warned previously of the likely consequences of such behavior, the Court will refrain from imposing sanctions at this time.

Dismissal and the imposition of monetary sanctions are remedies available under Rule 37 for a party's failure to obey rules governing discovery and orders of the District Court. See Fed. R. Civ. P. 37(b)(2)(C); National Hockey League v. Metro. Hockey Club, 427 U.S. 639, 643 (1976); Mutual Fed. Sav. & Loan v. Richards & Assocs., 872 F.2d 88, 92 (4th Cir. 1989); and Wilson v. Volkswagen of America, Inc., 561 F.2d 494, 504-04 (4th Cir. 1977).

Accordingly, the Court warns Plaintiff that failure to provide full and complete responses to Defendant's First Set of Interrogatories, First Request for Production, and Second Request for Production, to appear for her deposition, or to respond to any other of the Defendant's reasonable discovery requests, or to otherwise fail to comply fully with any of the Court's Orders, the Local Rules, or the Rules of Civil Procedure may result in the imposition of sanctions. **Sanctions may include Plaintiff being ordered to pay Defendant's costs, including reasonable attorney's fees in their entirety, and may also include dismissal of the Complaint with prejudice.**

NOW THEREFORE, IT IS ORDERED:

1. "Defendant's Motion to Compel and for Sanctions" (document #10) is **GRANTED IN PART** and **DENIED IN PART**, that is:

a. Within ten days of the date of this Memorandum and Order, Plaintiff shall provide full and complete responses to Defendant's First Set of Interrogatories, First Request for Production, and Second Request for Production. If Plaintiff contends that she does not have in her possession, custody or control any information responsive to a particular discovery request, she must specifically reply to that effect in her sworn discovery response.

b. Within ten days of the date of this Memorandum and Order, Plaintiff shall appear for her deposition at the date, time and location noticed by Defendant.

2. The parties shall bear their own costs at this time.

3. The Clerk is directed to send copies of this Memorandum and Order to the pro se Plaintiff; to defense counsel; and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: June 5, 2012



David S. Cayer
United States Magistrate Judge

